



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,887	04/16/2001	Paola Lenti	1011-287	4551

7590 02/25/2003

James V. Costigan, Esq.  
HEDMAN & COSTIGAN, P.C.  
Suite 2003  
1185 Avenue of the Americas  
New York, NY 10036-2646

EXAMINER

PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
----------	--------------

1771

DATE MAILED: 02/25/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/835,887

Applicant(s)

LENTI, PAOLA

Examiner

Jeremy R. Pierce

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \*   c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Amendment A has been filed on January 30, 2003 as Paper No. 4. Claims 1-9 have been cancelled. New claims 10-14 have been added. The amendment overcomes the 35 USC 112, 102, and 103 rejections set forth in the last Office Action.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the bottom layer is made of "a material suitable for coupling with a tearing strip means." It is unclear whether the tearable strip means is being positively recited in this claim as being part of the invention. Claim 10 does not seem to recite the tearable strip means as part of the invention, but dependent claims 12 and 13 recite further limitations of the tearable strip means.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 1771

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Latzke (U.S. Patent No. 4,887,368).

Latzke teaches a composite material comprising an outer layer of woven wool (column 7, lines 42-46), a central layer of closed-porous polyethylene foam (column 8, lines 4-9), and a bottom layer comprising a Velcro strip fastener (column 4, line 35), which would be suitable for coupling with a tearing strip means. The layers are coupled together using hot-melt adhesive (column 11, lines 47-52). With regard to claim 11, the layers are laminated and molded together using heat and pressure (column 9, lines 64-65).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Latzke.

With regard to claims 12 and 13, Latzke do not disclose with specificity whether the tearable strip means that the laminate attaches to has adhesive on it or not. However, if Latzke use Velcro fastener on the laminate material, then it must be

Art Unit: 1771

inherent that there exists a corresponding fastening material that the Velcro is to attach to. It would have been obvious, if not necessary, to one having ordinary skill in the art to have the tearable strip means to which the laminate of Latzke is to be attached to have an adhesive layer on the opposite face, in order to create a means to attach the tearable strip means to another surface, since the Velcro material would serve no purpose otherwise. With regard to claim 14, Latzke discloses the material may be formed into any desired shape (Abstract), but do not disclose using a contoured mold to cut the composite into the desired shape. It would have been obvious to one having ordinary skill in the art to cut the composite to the desired shape by using a contoured mold in order to create many composites with the same shape in a fast process.

### ***Response to Arguments***

8. Applicant's arguments filed in Paper No. 4 have been fully considered but they are not persuasive.

9. Applicant argues that the central layer of Latzke is a metal layer. The Examiner agrees that Latzke does have a metal layer in the laminate. However, Applicant's claims do not preclude a metal layer in the composite. Latzke still comprise the claimed layers in the relevant bottom, central, and top positions. The Examiner never characterized the metal layer as Applicant's central layer. The thermoformable foam of Latzke is characterized as Applicant's central layer. The composite of Latzke is not coupled because it is molded under heat and pressure, as set forth above in the rejection.

Art Unit: 1771

### **Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce  
Examiner  
Art Unit 1771

  
ELIZABETH M. COLE  
PRIMARY EXAMINER

February 24, 2003